

EXHIBIT 4

BENJAMIN COTTON
Smartmatic USA Corp vs Michael J. Lindell

August 08, 2024
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1	IN THE UNITED STATES DISTRICT COURT	1	APPEARANCES
2	FOR THE DISTRICT OF MINNESOTA	2	
3		3	Appearing on behalf of the Plaintiffs:
4	SMARTMATIC USA CORP.,	4	TIMOTHY M. FREY
5	SMARTMATIC INTERNATIONAL	5	OLIVIA SULLIVAN
6	HOLDING B.V. and SCO	6	BENESCH FRIEDLANDER COPLAN & ARNOFF
7	CORPORATION LIMITED,	7	71 South Wacker Drive, Suite 1600
8		8	Chicago, IL 60606
9	Plaintiffs,	9	tfrey@beneschlaw.com
10		10	osullivan@beneschlaw.com
11	vs. Case No. 0:22-cv-00098-WMW-JFD	11	
12		12	Appearing on behalf of the Defendant:
13	MICHAEL J. LINDELL and MY	13	MCSWEENEY CYNKAR & KACHOUROFF, PLLC
14	PILLOW, INC.,	14	CHRISTOPHER KACHOUROFF
15		15	13649 Office Place, Suite 101
16	Defendants.	16	Woodbridge, Virginia 22192
17		17	chris@mck-lawyers.com
18		18	
19	VIDEOTAPED DEPOSITION OF BENJAMIN COTTON	19	ALSO PRESENT: Don Savoy, Videographer
20	THURSDAY, AUGUST 8, 2024	20	
21	9:35 a.m. PST	21	
22		22	
23		23	
24		24	
25		25	
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1	BE IT REMEMBERED THAT, the videotaped deposition of	1	EXAMINATION INDEX
2	BENJAMIN COTTON was reported by Mary C. Soldati,	2	
3	Registered Professional Reporter and Certified Shorthand	3	JOSEPH COTTON PAGE NO.
4	Reporter, on Thursday, August 8, 2024, commencing at the	4	By Mr. Frey 6/196
5	hour of 9:35 a.m. PST, the proceedings being reported	5	By Mr. Kachouroff 192
6	remotely from Portland, Oregon.	6	
7		7	EXHIBIT INDEX
8		8	
9		9	EXHIBIT NO. DESCRIPTION PAGE NO.
10		10	
11		11	Exhibit No. 705 Benjamin Cotton's 28
12		12	Declaration
13		13	
14		14	Exhibit No. 706 ATSEC Source Code Review 77
15		15	Report Voting Solutions For All
16		16	People Version 2.0.
17		17	Report Date 2020-1-06
18		18	
19		19	Exhibit No. 707 Court Order 93
20		20	
21		21	Exhibit No. 708 County of Los Angeles 138
22		22	VSAP Tally Voting System
23		23	Staff Report
24		24	
25		25	Exhibit No. 709 New York Times Article 188

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<p style="text-align: right;">Page 85</p> <p>1 A. No.</p> <p>2 Q. So you were examining those</p> <p>3 voting systems related to other litigation in</p> <p>4 which you were retained as an expert,</p> <p>5 correct?</p> <p>6 A. Correct.</p> <p>7 Q. Did you rely upon your forensic</p> <p>8 review of these voting systems in rendering</p> <p>9 your opinions in this litigation?</p> <p>10 A. As a corpus of knowledge, I</p> <p>11 relied on that information that I obtained</p> <p>12 through those examinations for paragraphs 20</p> <p>13 and 21, which is the general cyber security</p> <p>14 posture for voting systems.</p> <p>15 Q. And do you -- let's go through</p> <p>16 them one at a time.</p> <p>17 So the first one is the voting</p> <p>18 system in Maricopa County Arizona. What</p> <p>19 company manufactured the voting system</p> <p>20 information you reviewed from Maricopa</p> <p>21 County?</p> <p>22 A. Dominion.</p> <p>23 Q. And what type of election</p> <p>24 technology system did you forensically</p> <p>25 examine?</p>	<p style="text-align: right;">Page 87</p> <p>1 all the digital media, and then used an FTK</p> <p>2 imageer to create a forensics image of each</p> <p>3 of those components.</p> <p>4 Q. Did you yourself --</p> <p>5 (Cross talk.)</p> <p>6 A. I've got a UPS device that is</p> <p>7 beeping and it's about to go off. So I need</p> <p>8 to reset something real quick.</p> <p>9 Q. Sure, no problem.</p> <p>10 MR. FREY: We can go off the</p> <p>11 record.</p> <p>12 THE VIDEOGRAPHER: We are going</p> <p>13 off the record at 11:30 a.m.</p> <p>14 (Break taken.)</p> <p>15 THE VIDEOGRAPHER: We are back</p> <p>16 on the record at 11:33 a.m.</p> <p>17 BY MR. FREY:</p> <p>18 Q. Okay. Mr. Cotton, we are back</p> <p>19 on the record. And my question was:</p> <p>20 Based on your prior answer that</p> <p>21 you followed standard digital imaging</p> <p>22 processes, et cetera, you -- it sounds like</p> <p>23 you yourself imaged the voting system</p> <p>24 components for Maricopa County, Arizona; is</p> <p>25 that true?</p>
<p style="text-align: right;">Page 86</p> <p>1 A. I examined all aspects of the</p> <p>2 digital computing devices, which included the</p> <p>3 Election Management Server, the EMS; the EMS</p> <p>4 clients; the adjudication work stations; the</p> <p>5 ICCs, which are the scanning controllers for</p> <p>6 the canon scanners.</p> <p>7 They also had four HiPro</p> <p>8 scanners, which were high volume scanning</p> <p>9 devices. Those were included as part of that</p> <p>10 examination.</p> <p>11 Q. Did you examine any ballot</p> <p>12 marking devices?</p> <p>13 A. They did not provide the ballot</p> <p>14 marking devices as part of that subpoena.</p> <p>15 But I did examine tabulators and the</p> <p>16 tabulator data cards.</p> <p>17 Q. So tabulators, tabulator data</p> <p>18 cards, EMS, scanners.</p> <p>19 But no BMDs, right?</p> <p>20 A. Correct.</p> <p>21 Q. How did you obtain the forensic</p> <p>22 images of these components of the voting</p> <p>23 system in Maricopa County Arizona?</p> <p>24 A. So I followed standard digital</p> <p>25 imaging processes, utilized a right block for</p>	<p style="text-align: right;">Page 88</p> <p>1 A. You mean some of them. We had</p> <p>2 a team of ten people that were performing the</p> <p>3 imaging. I personally conducted the training</p> <p>4 of all people to make sure they met the</p> <p>5 standards. They were part of my company.</p> <p>6 And we had some independent contractors</p> <p>7 contacted as well for this.</p> <p>8 So we baselined everybody, did</p> <p>9 essentially a mini-validation that they were</p> <p>10 following proper procedures, and then we</p> <p>11 imaged approximately 140 terabytes of data as</p> <p>12 part of that engagement.</p> <p>13 Q. And I don't need the exact</p> <p>14 date, but do you recall the time period in</p> <p>15 which you performed this imaging?</p> <p>16 A. It would have been from the</p> <p>17 middle of May for the next two weeks.</p> <p>18 Q. May 2021?</p> <p>19 A. Yeah.</p> <p>20 Q. So it wasn't imaged at the time</p> <p>21 of the election, correct?</p> <p>22 A. No. We were relying on the</p> <p>23 Arizona Senate to provide the devices under</p> <p>24 subpoena. And so it took -- the subpoena was</p> <p>25 issued in December of 2020, and then there</p>

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1 Do you see that?	1 "Although the plaintiffs'
2 A. I do.	2 claims that Maricopa County's systems
3 Q. And the Court says that the	3 can be or have been connected to the
4 special master found, quote, "No evidence	4 Internet are in direct contradiction
5 that the routers, manage switches, or	5 to the County Defendant's evidence and
6 electronic devices in Maricopa County's	6 the special master's findings, the
7 Ballot Tabulations Center connected to the	7 Court will treat them as unpersuasive
8 public Internet," right?	8 arguments rather than as false
9 A. I see that.	9 assertions of fact, allowing
10 Q. And is this consistent with the	10 plaintiffs the benefit of the doubt."
11 special master's testimony?	11 Do you see that?
12 A. That is. However, what I would	12 A. I think the keyword there is
13 like to point out here is that the special	13 they allowed the plaintiffs the benefit of
14 master's examination of the current state of	14 the doubt. If you will review my report to
15 the Maricopa County network was conducted	15 the Senate, I itemized specific instances in
16 almost two and a half months after we imaged	16 which multiple connections were made external
17 the devices.	17 to the Air Gap network by the EMS.
18 At no time did they request or	18 Q. And you maintain control or
19 did they examine the forensics images that we	19 possession of the information that you
20 created that was the basis of my testimony.	20 forensically reviewed in this case?
21 So in other words, they wrote a	21 A. So I returned to forensics
22 report without looking at the evidence. They	22 images to the Arizona State Senate.
23 wrote a report in which not all of the	23 Q. Did you rely upon the forensic
24 evidence, as it existed at the time of the	24 images from the Maricopa County voting
25 election, existed.	25 systems in rendering your opinions in this
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1 And they relied almost	1 case?
2 exclusively on the Maricopa County officials'	2 A. From a corpus of knowledge as
3 assertion that it was an Air Gap network.	3 it pertained to cyber security, yes, in
4 So this was his decision, but	4 paragraphs 20 and 21.
5 quite frankly, I don't understand how you can	5 There was no dispute that they
6 make this decision when they didn't look at	6 did not patch the systems, they had not
7 the evidence that we preserved. And the	7 updated the antivirus, they allowed remote
8 Senate had a copy of those images.	8 access to the EMS, they had used the same
9 And that did not include all	9 password for all user accounts on the system.
10 the equipment that the Pro V&V audit report	10 There's no dispute to that.
11 validated was present at the time of the	11 Q. And I'm just trying to
12 election.	12 understand that -- the extent to which you
13 You know, I think we've all	13 relied upon that for rendering your opinions
14 been in cases where we believe the judge got	14 in this litigation.
15 it wrong. And in this case, he definitely	15 And that's in paragraphs 20 and
16 did.	16 21, you said, correct?
17 Q. As the Court then goes on to	17 A. Well, specifically to the Air
18 state at the bottom of that page, it says:	18 Gap network, I relied on my personal
19 "The special master's findings	19 knowledge and the ability to easily bypass
20 are consistent with what the County	20 Air Gap networks through various techniques.
21 has long maintained and what previous	21 I did not rely on this particular finding by
22 audits have likewise concluded."	22 the judge as part of my report.
23 Do you see that?	23 Q. Okay. I want to talk about the
24 A. I do.	24 next system that you forensically reviewed,
25 Q. And then the Court says:	25 and that's Antrim County, Michigan, correct?

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1 A. Correct.	1 write block.
2 Q. And what company manufactured	2 Q. Are you confident that it
3 the voting system information you reviewed	3 was --
4 from Antrim County?	4 A. And it was --
5 A. Dominion.	5 (Cross talk.)
6 Q. And was that the Dominion	6 (Reporter clarification.)
7 5.5(a), did you testify earlier?	7 THE WITNESS: It was in the
8 A. B.	8 N-case format.
9 Q. 5.5(b), okay.	9 BY MR. FREY:
10 A. 5.5(b) --	10 Q. Are you confident that it was
11 Q. I'm sorry?	11 collected in the manner that would
12 A. 5.5(a) is Georgia.	12 demonstrate how it would have performed on
13 Q. And what components of the	13 election day?
14 voting system did you forensically review in	14 A. I saw no indications that
15 Antrim County?	15 anything was modified on it. And within the
16 A. So with Antrim County, I had	16 N-case forensics image format, it has a
17 access to previously imaged -- to a	17 self-validation/verification function. And
18 previously-imaged forensics image of the EMS	18 the images -- the image is verified.
19 server, as well as the poll books and I	19 Q. And did you appear as an expert
20 believe an ICC.	20 witness related to your review of the
21 Q. So no BMD, correct?	21 information obtained from Antrim County?
22 A. And a BMD, yes.	22 A. Specific to Antrim County, I
23 Q. There was a BMD?	23 submitted an affidavit, but it did not reach
24 A. Yes.	24 court so I did not testify.
25 Q. And you don't recall one way or	25 Q. That litigation was dismissed
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1 the other whether BMDs were used in Antrim	1 by the court, correct?
2 County in the 2020 election?	2 A. Correct.
3 A. I don't recall if this was one	3 Q. Do you retain control or
4 that was actually used or one that they had	4 possession of the forensic images from Antrim
5 imaged.	5 County?
6 I actually had imaged that one,	6 A. I returned those to the
7 so I don't know if that one was actually used	7 attorney.
8 in the election or not, so...	8 Q. Did you review the forensic
9 Q. And it sounds like -- you said	9 images from Antrim County in the course of
10 you imaged one thing and then they had imaged	10 drafting your declaration in this case?
11 other things.	11 A. I reviewed the report at some
12 So who did the -- who obtained	12 point prior to writing this, but once again,
13 the information that you reviewed --	13 that formed the -- kind of the corpus of
14 A. I'd have to look at the custody	14 knowledge for paragraphs 20 and 21.
15 documents for the exact person, but I believe	15 Q. And in paragraphs 20 and 21,
16 it was a member of an organization called	16 you don't cite to any specific, you know,
17 ASOC.	17 findings or Antrim County specifically in
18 Q. Is that Colonel Waldron's	18 there, correct?
19 organization?	19 A. No, but what I did find was
20 A. I believe so, yes.	20 consistent among all of the Dominion systems,
21 Q. Do you know the manner in which	21 was an -- I would call it a complete and
22 they collected information?	22 utter lack of cyber security practices.
23 A. Based on the forensic images	23 The systems weren't patched,
24 that I got, it appeared to be created with	24 the antivirus wasn't updated, there was no
25 FTK Imager in conjunction with the use of a	25 mechanism to validate that only certified

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<p>1 processes were being run, that only 2 authorized MAC addresses were communicating. 3 The user passwords had never 4 been changed since the date of the 5 installation of the software, and there was 6 repeated usage of the same password within 7 each jurisdiction for all user accounts. And 8 that had been across all Dominion.</p> <p>9 Q. And we just -- we don't -- to 10 your knowledge, defendants have not produced 11 any of the information you're relying on here 12 to plaintiffs in this case, right?</p> <p>13 A. No one has asked for it.</p> <p>14 Q. And if the request were made, 15 would you be able to provide the images you 16 reviewed from Antrim County?</p> <p>17 A. I would, but I would assume 18 that that would take a court order, because 19 one company is looking at another company's 20 proprietary data. But, yes, we would produce 21 that.</p> <p>22 Q. Moving on to Mesa County, 23 Colorado.</p> <p>24 What voting system information 25 did you review from Mesa County, Colorado?</p>	<p>1 exactly what she was charged with.</p> <p>2 BY MR. FREY:</p> <p>3 Q. And you said you got the image 4 that you reviewed from her attorneys; is that 5 right?</p> <p>6 A. Yes.</p> <p>7 Q. And was that in connection with 8 the defense of her criminal case?</p> <p>9 A. That was my understanding, yes.</p> <p>10 Q. And what work did you do with 11 that image?</p> <p>12 A. I was asked to be a 13 non-testifying expert and review the findings 14 of another team's report.</p> <p>15 Q. Do you maintain control or 16 possession of the image of the Dominion EMS 17 from Mesa County, Colorado?</p> <p>18 A. I do not.</p> <p>19 Q. Are you relying upon your 20 review of the Dominion EMS from Mesa County, 21 Colorado in rendering your opinions in this 22 case?</p> <p>23 A. Only to the effect of the cyber 24 security implications for the election 25 systems as a whole.</p>	<p>1 Q. Okay. What voting system 2 information did you review from Coffee 3 County, Georgia?</p> <p>4 A. I was retained by Misty 5 Hampton's attorney to examine the EMS and one 6 ICC notebook as part of her defense for Misty 7 Hampton.</p> <p>8 Q. And was that -- excuse me. 9 (Discussion off the record.)</p> <p>10 BY MR. FREY:</p> <p>11 Q. So you reviewed the EMS and an 12 ICC notebook.</p> <p>13 Was that a Dominion system?</p> <p>14 A. That was, yes.</p> <p>15 Q. And again, that's -- you did 16 not review an image of a ballot-marking 17 device, correct?</p> <p>18 A. No.</p> <p>19 Q. And do you know how the image 20 that you reviewed of the EMS and ICC notebook 21 was obtained?</p> <p>22 A. Yes. I was provided that by -- 23 or provided access to it by Stephanie 24 Lambert, who was the attorney for Misty 25 Hampton.</p>